

LABOUR DEPARTMENT

The 13th April, 1976

No. 1798-4Lab-76/10034.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/S Bhiwani Textile Mills, Bhiwani.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK
Reference No. 42 of 1973

between

SHRI UMA SHANKAR, WORKMAN AND THE MANAGEMENT OF M/S BHIWANI TEXTILE
MILLS, BHIWANI

AWARD

By order No. ID/HSR/18-F-73/31630, dated 4th July, 1973, the Governor of Haryana, referred the following dispute between the management of M/s Bhiwani Textile Mills, Bhiwani and its workman Shri Uma Shanker to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (I) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Uma Shanker was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that he having been employed on 16th June, 1971, as a Moulder by the management in a permanent vacancy, the later adopted unfair labour practice of renewing his assignment after every two months and that finally his services were terminated illegally with effect from 6th March, 1973.

The management,—*vide* written statement filed by them while denying the allegations of the workman pleaded that he was appointed on 16th June, 1971, on a temporary job as a casual worker only for a period of 3 months as a Moulder and that he had been employed from time to time in a temporary vacancy as a casual worker, as and when his services were required and that on the temporary erection work coming to an end in March, 1973, his services were dispensed with on 5th March, 1973.

An issue in terms of the dispute stated above as referred to this Court was accordingly framed on pleas of the parties,—*vide* order, dated 8th January, 1974.

The management examined Shri Tulsi Dass Kabra, their Head Time-keeper as M.W.1 besides Shri Karam Singh, their Chief Engineer, M.W. 2 and closed their evidence. Shri Kabra fully supported the pleas of the management while bringing on record documents M-1 to M-16 consisting of the application made by the workman for his employment, the order made thereon and some letters sent by the management to him. He deposed that the workman was employed from time to time on a trial basis on an application made by him for that purpose and that he was made to fill in the engagement form. He added that there were only three permanent Moulders in the employment of the management and no other person had been employed after the management dispensed with the service of Shri Uma Shanker. Shri Karam Singh, Chief Engineer, also made a statement in the same strain while deposing that the erection work having been completed the service of Shri Uma Shanker were no longer required.

The evidence of the aforesaid two witnesses is found fully corroborated by the documents, Exhibit M-1 to M-16. I find a specific order recorded on applications M-3, M-5, M-7, M-9, and M-16 that the workman was employed on trial basis for three months each time intermetently during the period from 15th June, 1971 to 6th December, 1972. I further find that he was finally employed on trial basis for a period of two months for erection work,—*vide* order, dated 1st January, 1973, on his application, Exhibit M-11.

The correctness of the case of the management as found disclosed by the evidence of their witnesses that no other Moulder had been employed after the service of Shri Uma Shanker were dispensed with and there were only three posts of permanent Moulders, with them could not be denied by the workman and the conclusion in view of the overwhelming evidence, oral and documentary, led by the management is that the workman had been employed on trial basis only for two months,—*vide* order, dated 1st January, 1973, made on his application, Exhibit M-11 and the mere fact that he had been similarly appointed on trial for short period, intermetently even earlier, did not lead to a conclusion of adoption of any unfair labour practice by the management, as contended by the workman. The statement of the workman that the management started taking over time work from the permanen

3 Moulders and got some of their work done in the market after his services had been dispensed with in absence of any corroborative evidence cannot be relied upon, particularly when no such suggestion was made to any of the witnesses examined by the management.

I, therefore, hold that the termination of services of Shri Uma Shanker, a casual workman, by the management on the completion of erection work is proper, justified and legal in all respects and the workman is not entitled to any relief. I accordingly answer the reference while returning the award in terms of my findings made above.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated 6th February, 1976.

No. 417, dated 14th February, 1976.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2519-4Lab-76/10036.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s T.I.T. Mills, Bhiwani.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 13 of 1968

between

THE WORKMEN AND THE MANAGEMENT OF M/S T.I.T. MILLS, BHIWANI.

AWARD

By order No. I.D./HSR/20-C/67-68/2569, dated 27th January, 1968, the Governor of Haryana, referred the following dispute between the management of M/s T.I.T. Mills, Bhiwani and its workmen to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workmen are entitled for extra wages for 23rd October, 1966, being Dusshera Festival? If so, with what details ?
- (2) Whether the workmen are entitled for enhanced bonus for the year 1965-66 ? If so, with what details ?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workmen alleged that they were entitled to the grant of 7 national festival holidays during the year 1966, according to the provisions of Punjab Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Act, 1965, hereinafter referred to as the Act and that they were shown absent on 23rd October, 1966, a Dusshera holiday and that their wages had been deducted for their absence on that date by the management, unjustifiably and illegally. They further stated that the management had made huge profit during the year 1965-66 and that they were entitled to payment of bonus at the rate of 20 per cent of their annual wages instead of 4 per cent of their annual wages the minimum allowed to them.

The management raised preliminary objection that the reference made to this Court was illegal. On merits they denied the correctness of the demand raised by the workmen leading to this reference.

The workman,—*vide* rejoinder filed by them reiterated the allegations made in the statement of claim while controverting the pleas of the management with the result that the issues were framed in terms of the dispute stated above,—*vide* order, dated 17th June, 1968. I have seen the record and decide the issues as under :—

Issue No. 1.—The workmen examined Shri Ganesh Dutt, President, T.I.T. Karamchari Sangh, Bhiwani, AW-1, Shri Hari Om a Weaver in the T.I.T. Mill, Bhiwani, AW-2 and Shri Makhan Singh, General Secretary,

Mazdoor Sabha AW-3 who all deposed that despite 23rd November, 1966 being a holiday on account of Dusshera Festival, they were marked absent on that date and their one day wages were deducted by the management. As against this evidence, Shri N.M. Jain, Factory Manager, T.I.T. Mills, Bhiwani, deposed as MW-2 that 4 festival holidays were allowed to the workmen according to section 3 of the Act, after the rules framed under the Act had been published in the year 1966. He categorically stated that the management did not declare 23rd October, 1966 as a festival holiday and allowed 4 festival holidays besides 3 national holidays after the rules had been published in June, 1966. He further gave out that the union did not make a demand for a holiday for 23rd October, 1966 and the demand made in the morning of that date was not acceded to. He added that a copy of the statement Exhibit M-6 relating to the list of weekly, national and festival holidays was sent to the Chief Inspector of Factories.

There was no denial by any of the workmen of the plea of the management that he was granted 4 festival holidays besides the 3 national holidays. Section 3 of the Act provides for grant of only 4 festival holidays as stated in the schedule in the manner and on such condition as may be prescribed, besides the 3 national holidays. Rule 3 of the Punjab Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Rules, 1966, hereinafter referred to as the rules provided for determination of the 4 festival holidays, in consultation with the representative of the workmen before 30th November of each year, for the ensuing calendar year. Shri N.M. Jain explained that the management had already allowed 4 festival holidays before the rules could be enforced. The refusal of the management to grant Dusshera holidays falling on 23rd October, 1966 cannot under the circumstances be said to be unjustified and the workmen are not entitled for the extra wages for 23rd October, 1966. I decide this issue accordingly.

Issue No. 2:- Shri Banarsi Dass, Accountant, T.I.T. Mills MW-1 deposed that he prepared the bonus statement Exhibit M-1, while taking into consideration the statement relating to development rebate reserve M-2, statement of depreciation in money value of the property of the management M-3 and M-3A; the statement relating to income-tax payable by the management for the year in dispute Exhibit M-4 and the statement relating to the return of money of interest Exhibit M-5. The workmen did not adduce any evidence on this issue despite the fact that the burden to establish their case lay on them and many opportunities were given to them in this connection. Their evidence was thus closed by me, *vide* my order, dated 27th October, 1975 for the reasons stated therein. The case of the workmen thus remained unestablished. I see no reason to disbelieve the statement of Shri Banarsi Dass M.W. 1 that he prepared all the aforesaid statements correctly particularly when there is not the least rebuttal. I accordingly hold all the statements prepared by him as correct while replying on his evidence.

Section 5 of the Act provides as under :—

"The available surplus in respect of any accounting year shall be the gross profits for that year after deducting there from the sums referred to in section 6."

The relevant provision of section 6 of the Act lays down as under :—

The following sums shall be deducted from the gross profits as prior charges, namely :—

- (a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 2 of the Income tax Act, or in accordance with the provisions of the agricultural income tax law as the case may be;
- (b) any amount by way of development rebate or development allowance which the employer is entitled to deduct from his income under the Income Tax Act ;
- (c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year.

Section 7(b) of the Act reads as under :—

"where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the Income Tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act ;

I have carefully seen the statement Exhibit M-1 relating to the calculation of bonus for the year in dispute according to the provision of section 5, 6 and 7(b) of the Act reproduced above, prepared by Shri Banarsi Dass with reference to the statement M-2 to M-5 referred to above and held by me to be correct. I find that there was a deficit of available allocable surplus to the tune of Rs. 5,08,184 and the minimum bonus of 4 per cent of the annual wages as declared by the management is thus correct and justified in all respect. The workmen are thus not entitled to the grant of any additional bonus for the year 1965-66. I decide the issue accordingly.

I, therefore, answer the reference while returning the award in respect of disputes Nos. 1 and 2 according to the finding made by me above.

Dated, the 19th February, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 295, dated 23rd February, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated, the 23rd August, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 3027-4Lab-76/10038.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Rohtak-Delhi Transport (P) Ltd., Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 162 of 1971

between

SHRI RAJINDER SETHI WORKMAN AND THE MANAGEMENT OF M/S ROHTAK-DELHI
TRANSPORT (P) LTD., ROHTAK

AWARD

By order No. ID/RK/43S/27826, dated 9th September, 1971, the Governor of Haryana referred the following dispute between the management of M/s Rohtak-Delhi Transport (P) Ltd., Rohtak and its workman Shri Rajinder Sethi to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Rajinder Sethi was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that he was illegally retrenched from service by the management with effect from 9th May, 1970 and that he was entitled to reinstatement. The management, — vide written statement filed by them pleaded that the workman had been legally retrenched from service with effect from 11th May, 1970 by serving him one month's notice, dated 10th April, 1970, as a result of nationalisation of Road Transport by the State of Haryana and the business of running a Petrol Pump where the workman was employed was only incidental to the main business of transport.

The workman controverted the plea of the management and reiterated the allegations made by him in the claim statement, — vide rejoinder filed by him.

An issue as per terms of the dispute stated above was accordingly framed on pleas of the parties, — vide order, dated 7th January, 1972. I have heard Shri S. N. Vats, the authorised representative for the workman and Shri Surjit Singh one of the partners of the management and seen the record.

It is conceded that workman was retrenched, — vide notice, dated 10th April, 1970 copy Ex. M. W. 1/1 duly served on the workman under his signatures with a direction to him to collect the retrenchment compensation amounting to Rs 765 admissible to him under section 25-F of the Industrial Disputes Act from the management on any date before 11th May, 1970 and informing him that his services shall stand retrenched with effect from 11th May, 1970. The workman was admittedly not paid the retrenchment compensation at this time of his retrenchment, — vide notices Ex. M. W. 1/1 and the provision of section 25-F (b) was thus violated. It is therefore obvious that the

retrenchment of the services of the workman became illegal on account of the failure of the management to comply with the provisions of section 25.F(b) of the Industrial Disputes Act in making payment to him of the retrenchment compensation at the time of the retrenchment.

The retrenchment of the services of the workman having been held by me to be illegal, he is entitled to be reinstated with continuity of services and full back wages. I accordingly decide the issue against the management and answer the reference while returning the award in terms of the findings made by me above.

Dated, the 15th March, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 724, dated 18th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 14th April, 1976

No. 2451-4Lab-76/10020.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Textile, Industrial Area, Rohtak Road, Bhiwani.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 104 of 1975

between

SHRI SRISKISHAN WORKMAN AND THE MANAGEMENT OF M/S HARYANA TEXTILE,
INDUSTRIAL AREA, ROHTAK ROAD, BHIWANI

AWARD

By order No. ID/HSR/113-D-75/67530, dated 10th November, 1975, the Governor of Haryana referred the following dispute between the management of M/s Haryana Textile, Industrial Area, Rohtak Road Bhiwani and its workman Shri Sri Kishan to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Sri Kishan was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in response to the usual notices of reference to them. Shri Rgbhit Singh authorised representative for the workman made statement withdrawing the demand on the ground that an amicable settlement had been arrived at between the parties in respect of the dispute referred to this Tribunal. It would thus appear that there is now no dispute between the parties requiring adjudication.

I hold accordingly and answer the reference while returning the award in terms of this findings.

Dated the 2nd March, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 646, dated 3rd March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.